

REMARKS

This responds to the Final Office Action mailed on November 4, 2009.

Claims 1, 6, 11, 21, 26, 30, 35, 40, and 50 are amended; claims 10, 29, and 39 are canceled; and no claims are added. As a result claims 1-7, 9, 11-14, 21-28, 30-36, 38, 40-43, and 50-54 remain pending in this application.

Claim Objections

Claims 6, 21, 26, 35 and 50 are objected to because claims 6, 21, 26, 35 and 50 contain the same error in the newly added material. Specifically, the Examiner advised that "associated with respective a optimization technique" should be changed to "associated with a respective optimization technique."

Applicant has amended each of claims 6, 21, 26, 35, and 50 to correct the typographical error noted in the Office Action. Withdrawal of the objection to claims 6, 21, 26, 35, and 50 is respectfully requested.

§ 101 Rejection of the Claims

Claims 30-36, 38-43 and 50-54 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant has amended independent claims 30, 35, 40, and 50 to provide "A non-transitory machine-readable storage medium" as suggested on page 3 of the Office Action to overcome the rejections. Thus, withdrawal of the 35 U.S.C. § 101 rejection of claims 30, 35, 40, and 50 is respectfully requested.

§ 103 Rejection of the Claims

Claims 1, 2, 5, 11, 30, 31, 34 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kepler et al. (U.S. Patent No.7,103,589, hereinafter "Kepler") in view of Parham et al. (U.S. Patent No. 6,879,564; hereinafter "Parham").

Claims 3, 6, 9, 10, 12, 13, 26, 29, 32, 35, 38, 39, 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kepler, in view of Parham, as applied to claims 1, 11, 30 and 40 above, and further in view of Bondarenko et al. (U.S. Patent Application Publication No. 2004/0083479; hereinafter "Bondarenko").

Claims 4, 14, 33 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kepler, in view of Parham, as applied to claims 1, 11, 30 and 40 above, and further in view of Jiao (U.S. Patent No. 7,376,827; hereinafter “Jiao”).

Claims 7, 21-24, 27, 28, 36 and 50-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kepler, in view of Parham and Bondarenko, and further in view of Jiao.

Claims 25 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kepler, in view of Parham, Bondarenko and Jiao, as applied to claims 21 and 50 above, and further in view of Robb et al (U.S. Patent Application Publication No. 2003/0120502; hereinafter “Robb”) and Chu et al. (U.S. Patent No. 6,006,331; hereinafter “Chu”).

Claims 10, 29, and 39 are canceled.

With regard to the assertion in paragraph 4 in the Response to Arguments section of the Office Action that Parham also takes into account other factors such as cost, the cited portion of Parham at col. 4, line 52-53 must be read in the context of the surrounding paragraphs. By doing so, it is clear that the term “cost” is used as descriptive of costs that are minimized by use of the shortest path methods described in the application and is not itself a different factor to be minimized. Further, although the sentence at col. 4, lines 52-53 states that units can signify any factor or combination of factors that need to be minimized, this is with regard to a single technique in a single embodiment. Applicant is unable to locate where multiple techniques are implemented in a single embodiment of Parham or the other references of record.

Thus, Applicant respectfully resubmits the arguments that independent claims 1, 6, 11, 21, 26, 30, 35, 40, and 50 are patentable. For example, Kepler admittedly fails to provide a teaching of an optimization technique identifier that identifies an optimization technique to be performed as similarly set forth in each of the independent claims. Parham is asserted to provide such teachings. However, the claims provide that there are a plurality of possible optimization techniques. Conversely, Parham discloses only a single process that could possibly be classified as an optimization technique, that being the “shortest path.” Parham simply fails to teach or suggest a plurality of optimization techniques. At best, Parham describes that optimization techniques may take into account different factors, but there is not teaching or suggestion that a

technique may be selected with a request for a write operation through specification of a optimization technique identifier in the request as claimed.

Applicant also submits that Parham further fails to provide a teaching or suggestion of an optimization technique identifier. Parham, having only a single possible optimization technique, need not identify the optimization technique with an identifier. Further, if the asserted combination were to be made, the single optimization process of Parham teaches away from including an optimization technique identifier because when there is only one option, that option is the only option that can be pursued. A single option need not be identified if it is the only option. Regardless of whether Parham was asserted for this purpose, as the Office Action notes in the Response to Argument section Kepler was cited for this purpose, the entirety of Parham must be taken into account. Piecemeal selection of portions of a reference may not be made in rejecting claims. Instead, the entirety of the reference must be considered. When considered in its entirety, Applicant respectfully submits that Parham teaches away from the present claims.

Thus, Applicant respectfully submits that the combination of Kepler and Parham fails to render the independent claims obvious as the asserted combination fails to teach or suggest all the elements of the claims and because Parham teaches away from the asserted combination.

With regard to independent claims 6, 21, 26, 35, and 50 Bondarenko is provided for the purpose of showing the use of DSML. With regard to claims 21 and 50, Jiao is provided for the purpose of showing the use of one or more LDAP requests. However, both Bondarenko and Jiao fail to cure the deficiencies of Kepler and Parham. Robb and Chu are also provided to show additional elements of claim 25 and 54, but Robb and Chu also fail to cure the deficiencies noted above. Thus, Applicant respectfully submits that independent claims 1, 6, 11, 21, 26, 30, 35, 40, and 50 are patentable over the reference of record.

Nevertheless, in the interest of moving prosecution forward in a timely manner, Applicant has amended each of independent claims 1, 6, 11, 21, 26, 30, 35, 40, and 50 to clarify that the plurality of optimization techniques include closest to principal or object, closest to dynamic object X, closest to caller, and closest to Directory Services Markup Language (DSML) server or client techniques. These amendments are supported in the application as originally filed at page 11, line 21 – page 13, line 6.

AMENDMENT AND RESPONSE UNDER 37 C.F.R. § 1.116 - EXPEDITED PROCEDURE

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Title: SYSTEM AND METHOD FOR OPTIMIZING DATA STORE SELECTION FOR WRITE OPERATIONS

Page 15

Dkt: 884.B79US1

Applicant respectfully submits that the combination of Kepler and Parham in view of Bondarenko and Jiao fails to teach or suggest each of these techniques. Thus, Applicant respectfully submits that independent claims 1, 6, 11, 21, 26, 30, 35, 40, and 50 are patentable over the asserted combination of references. Claims 2-5, 7, 9, 12-14, 22-25, 27-28, 31-34, 36-38, 41-43, and 51-54 depend from one of the patentable independent claims and are also patentable for at least the same reasons.

Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejections and allowance of claims 1-7, 9, 11-14, 21-28, 30-38, 40-43, and 51-54.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 373-6938 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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